

U.S. Department
of Transportation

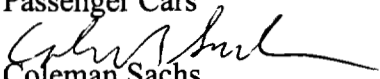
National Highway
Traffic Safety
Administration

Memorandum

NHTSA-03-16401-

Subject: Petition for Import Eligibility Decision on
Nonconforming 2002-2004 Smart Car
Passion, Pulse, and Pure (coupe and cabriolet)
Passenger Cars

Date: October 22, 2003

From: 
Coleman Sachs
Office of Vehicle Safety Compliance

To: Docket Management

Please place the attached petition for a decision that nonconforming 2002-2004 Smart Car Passion, Pulse, and Pure (coupe and cabriolet) passenger cars are eligible for importation in Docket No. NHTSA-2003-16401.

Attachment

#

G&K AUTOMOTIVE CONVERSION, INC.

3231 S. STANDARD AVE. SANTA ANNA, CA 92705-5641
(714) 545-9503 FAX(714) 545-7667

June 30, 2003

PETITION FOR IMPORT ELIGIBILITY DETERMINATION

IAW 49 CFR 593.5 (a) (1) (ii)

Administrator
National Highway Traffic Safety Administration
400 7th Street SW.
Washington, DC 20590

ATTN: NVS-223 Import Eligibility

Petitioner: G&K Automotive Conversion, Inc.
3231 S. Standard Ave.
Santa Ana, CA 92705-5641

Registered Importer Number: R90-007

Dear Sir or madam:

The following is the basis for this petition:

PART 593.6 (b) (1):

The vehicles for which a determination is sought is 2002-2004 model year Smart Car Passion (coupe & cabrio), Pulse (coupe & cabrio), and pure (coupe & cabrio). These vehicle's safety features comply with or are capable of being modified to comply with all applicable Federal motor vehicle safety standards

PART 593.6 (b) (2):

The following is a description of the necessary changes to bring the petitioned vehicles into conformity with all applicable Federal Motor Vehicle Safety Standards.

FMVSS 101 CONTROLS & DISPLAYS

The controls and displays are visible and accessible to the driver restrained by a lap and shoulder belt. Controls for headlamps, windshield defrosting and defogging system, windshield wiping system and panel are all identified. All required controls are illuminated. The vehicles meet this standard except for the following modifications:

1. The word brake will be added to the dash and seatbelt warning symbol.
2. Speedometer will be modified to read in miles per hour, the face will be modified to show miles per hour.

FMVSS 102 TRANSMISSION SHIFT LEVER:

The markings, starter interlock, shift pattern, brake effect will be modified to meet this standard. Modifications are confidential.

FMVSS 103 WINDSHIELD DEFROSTING & DEFOGGING:

The windshield defrosting and defogging system comply with the requirements of this standard based on testing done by G & K. Test is confidential.

FMVSS 104 WINDSHIELD WIPING, WASHING:

The windshield wiping and washing systems comply with the requirements of this standard based on testing done by G & K. Test is confidential.

FMVSS 106 BRAKE HOSES:

The brake hoses comply with the requirements of this standard.

FMVSS 108 LAMPS, REFLECTIVE DEVICES:

Modification of headlamps need to be done to meet the requirements of this standard please see testing performed, and installation of side markers. Modifications and testing are confidential.

FMVSS 109 NEW PNEUMATIC TIRES:

The vehicles come equipped with the required certification markings and therefore meet the standard.

FMVSS 110 TIRE SELECTION, RIMS:

A tire information placard must be affixed to the vehicle in order to comply fully with the requirements of FMVSS 110.

FMVSS 111 REARVIEW MIRROR:

The Drivers side and inside rear view mirrors meet the requirements of this FMVSS, However, The Passenger side rearview mirror does not comply with this FMVSS and will be modified by permanently etching the mirror with the statement "Objects In Mirror Are Closer Than They Appear". Modification is confidential.

FMVSS 114 THEFT PREVENTION:

The key locking system will be modified to meet the requirements of this standard. Modifications are confidential.

FMVSS 116 MOTOR VEHICLE BRAKE FLUIDS:

The petitioned vehicles come equipped with the required markings and therefore meet this standard.

FMVSS 118 POWER OPERATED WINDOW SYSTEMS:

The power window system is original and is wired so that the window transport is inoperative when the ignition is switched off.

FMVSS 124 ACCELERATOR CONTROL SYSTEM:

The accelerator control system has two sources of energy and meets the requirements of FMVSS 124.

FMVSS 135 PASSENGER CAR BRAKE SYSTEMS:

The hydraulic brake system and the parking brake systems will be modified to meet the requirements of this standard please see testing provided. Modified components are only available through G & K. Modifications and testing are confidential.

FMVSS 201 OCCUPANT PROTECTION IN INTERIOR IMPACT:

The interior components will be replaced by components fabricated by G & K to meet this standard, components are only available through G & K, please see testing provided. Components and testing are confidential.

FMVSS 202 HEAD RESTRAINTS:

Petitioned vehicle complies with the requirements of this standard please see testing provided by G & K. Test is confidential.

FMVSS 204 STEERING CONTROL REARWARD DISPLACEMENT:

Petitioned vehicles will be modified to comply with the requirements of this standard please see testing provided by G & K. Modifications and Testing is confidential.

FMVSS 205 GLAZING MATERIALS:

The glass and glazing materials comply with the requirements of this standard.

FMVSS 206 DOOR LOCKS AND RETENTION COMPONENTS:

The door locks and door retention components were modified to comply with the requirements of FMVSS 206 please see testing provided by G & K. Modification and testing are confidential.

FMVSS 207 SEATING SYSTEMS:

The seating system components comply with the requirements of FMVSS 207 please see testing provided by G & K.

FMVSS 208 OCCUPANT CRASH PROTECTION:

Modifications were done to meet the requirements of this standard, please see testing provided by G & K. Modifications and testing are confidential.

FMVSS 209 SEAT BELT ASSEMBLIES:

The seat belt assemblies will be modified to meet the requirements of this standard. Modifications are confidential.

FMVSS 210 SEAT BELT ASSEMBLIES ANCHORAGES:

The seat belt anchorages and components meet the requirements of this standard please see testing provided by G & K. Test is confidential.

FMVSS 212 WINDSHIELD MOUNTING:

The petitioned vehicles meet the requirements of this standard please see testing provided by G & K. Test is confidential.

FMVSS 214 SIDE DOOR STRENGTH:

Extensive design and modification was performed to meet this standard. This requirement was a major concern for G & K. The success of this project did hinge a great deal on the ability to modify both doors economically but yet also be capable of meeting the standard please see testing provided for dynamic and static passing with excellent results. Modifications and testing are confidential. Modified parts are only available through G & K.

FMVSS 216 ROOF CRUSH RESISTANCE:

Modifications were done to meet the requirements of this standard, please see testing provided by G & K. Modifications and testing are confidential.

FMVSS 219 WINDSHIELD ZONE INTRUSION:

The petitioned vehicles come equipped with components, applicable to FMVSS 219 please see testing provided by G & K. Test is confidential.

FMVSS 225 CHILD RESTRAINT ANCHORAGE SYSTEMS:

We will install U.S. model tether anchorage behind the passenger seat on coupe vehicles in order to meet FMVSS 225 requirements.

FMVSS 301 FUEL SYSTEM INTEGRITY:

The fuel system components were extensively modified to meet the requirements of this standard and also EPA standards, please see testing provided by G & K. Modified components are only available through G & K. Modifications and testing are confidential.

FMVSS 302 FLAMABILITY OF INTERIOR MATERIALS:

The interior materials and components covered by FMVSS 302, were treated with special material only available through G & K to meet the requirements of this standard please see testing provided by G & K. Modifications and testing is confidential.

49 CFR PART 541 THEFT PROTECTION STANDARD:

The petitioned vehicles have anti-theft devices and therefore, meet the requirements of 49 CFR Part 541.

49 CFR Part 565 VIN REQUIREMENTS:

A VIN plate will be installed permanently and will be visible and the wording "Substitute for U.S. VIN" and reference " 49 CFR Part 565 " will be added to meet the requirements of this standard.

49 CFR Part 581 BUMPER STANDARD:

In order to comply with the requirements of CFR Part 581, extensive engineering and modification is required to meet the requirements of this standard, please see testing provided by G & K. Parts are only available through G & K. Modifications and testing are confidential.

49 CFR Part 567 CERTIFICATION:

In order to comply with the requirements of Part 567, a certification label will be affixed to the drivers side door jam with the certification information required by part 567.

Recall statements and actions required to correct recall defects, will be reported with the compliance packet for each vehicle

This petition is requested to be withdrawn from Public disclosure.

I state that the foregoing is true and correct.

June 30, 2003

G&K Automotive Conversion, Inc.

BY: _____

GEORGE GEMAYEL, AUTHORIZED OFFICER

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Docket No. NHTSA-2003-16401

Notice of Receipt of Petition for Decision that
Nonconforming 2002-2004 Smart Car Passion, Pulse, and Pure
(Coupe and Cabriolet) Passenger Cars
Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT

ACTION: Notice of receipt of petition for decision that nonconforming 2002-2004 Smart Car Passion, Pulse, and Pure (coupe and cabriolet) passenger cars are eligible for importation.

SUMMARY: This document announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that 2002-2004 Smart Car Passion, Pulse, and Pure (coupe and cabriolet) passenger cars that were not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because they have safety features that comply with, or are capable of being altered to comply with, all such standards.

DATE: The closing date for comments on the petition is [30 days after publication in the Federal Register]

ADDRESS: Comments should refer to the docket number and notice number, and be submitted to: Docket Management, Room PL-401, 400 Seventh St., SW, Washington, DC 20590. [Docket hours are from 9 am to 5 pm]. Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business,

labor union, etc.). You may review DOT's complete Privacy Act Statement in the Federal Register published on April 11, 2000 (Volume 65, Number 70; Pages 19477-78) or you may visit <http://dms.dot.gov>.

FOR FURTHER INFORMATION CONTACT: Coleman Sachs, Office of Vehicle Safety Compliance, NHTSA (202-366-3151).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. § 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. § 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards. Where there is no substantially similar U.S.- certified motor vehicle, 49 U.S.C. § 30141(a)(1)(B) permits a nonconforming motor vehicle to be admitted into the United States if its safety features comply with, or are capable of being altered to comply with, all applicable Federal motor vehicle safety standards based on destructive test data or such other evidence as NHTSA decides to be adequate.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR Part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the Federal Register of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the Federal Register.

G&K Automotive Conversion, Inc. of Santa Ana, California ("G&K") (Registered Importer 90-007) has petitioned NHTSA to decide whether nonconforming 2002-2004 Smart Car Passion, Pulse, and Pure (coupe and cabriolet) passenger cars are eligible for importation into the United States. Another registered importer, J.K. Technologies, LLC of Baltimore, Maryland ("J.K.") (Registered Importer 90-006), previously petitioned NHTSA to decide whether 2003-2004 Micro Car Company Smart Passion (glass top and convertible) passenger cars are eligible for importation. NHTSA published notice of J.K.'s petition on June 20, 2003 at 68 FR 37040. The comment period on that petition has closed and the agency is in the process of deciding whether to grant the petition. If the agency grants J.K.'s petition, there will be no need for it to take action on G&K's

petition insofar as it seeks import eligibility for 2003-2004 Smart Car Passion (coupe and cabriolet) passenger cars, as those are the same vehicles as the ones covered by J.K.'s petition. If the agency decides to deny J.K.'s petition, it will again determine whether those vehicles are eligible for importation in its consideration of G&K's petition. As part of that consideration, the agency will also address, for the first time, the import eligibility of 2002 Passion, Pulse, and Pure model Smart Cars, and 2003-2004 Pulse and Pure model Smart Cars, since those vehicles were not included in J.K.'s petition.

G&K contends that nonconforming 2002-2004 Smart Car Passion, Pulse, and Pure (coupe and cabriolet) passenger cars are eligible for importation under 49 U.S.C. § 30141(a)(1)(B) because they have safety features that comply with, or are capable of being altered to comply with, all applicable Federal motor vehicle safety standards.

Specifically, the petitioner claims that 2002-2004 Smart Car Passion, Pulse, and Pure (coupe and cabriolet) passenger cars have safety features that comply with Standard Nos. 103 Defrosting and Defogging Systems (based on testing for which G&K is claiming confidentiality), 104 Windshield Wiping and Washing Systems (based on testing for which G&K is claiming confidentiality), 106 Brake Hoses (based on the equipment

manufacturer's certification), 109 New Pneumatic Tires (based on the presence of required certification markings), 116 Brake Fluid (based on the presence of required markings), 118 Power Window Systems (based on observation of the system's operation), 124 Accelerator Control Systems (based on observation of the system's operation), 202 Head Restraints (based on testing for which G&K is claiming confidentiality), 205 Glazing Materials (based on the presence of required certification markings), 207 Seating Systems (based on testing for which G&K is claiming confidentiality), 210 Seat Belt Assembly Anchorages (based on testing for which G&K is claiming confidentiality), 212 Windshield Retention (based on testing for which G&K is claiming confidentiality), and 219 Windshield Zone Intrusion (based on testing for which G&K is claiming confidentiality).

Petitioner further contends that the vehicles are capable of being altered to meet the following standards, in the manner indicated:

Standard No. 101 Controls and Displays: (a) inscription of the word "Brake" and a seat belt warning symbol on the dash; (b) modification of the speedometer to read in miles per hour. The petitioner states that the controls and displays are visible and accessible to the driver while restrained by a lap and shoulder belt, that controls for the headlamps, the windshield defrosting and defogging system, and the windshield wiping

system and panel are all identified, and that all required controls are illuminated.

Standard No. 102 Transmission Shift Lever Sequence: modification of the shift lever markings, the shift pattern, the starter interlock, and the automatic transmission braking effect to achieve compliance with this standard. The petition does not describe these modifications. G&K is claiming confidentiality with respect to these modifications.

Standard No. 108 Lamps, Reflective Devices and Associated Equipment: (a) modification of the headlamp to meet the standard; (b) installation of side markers. The petition does not describe these modifications. G&K is claiming confidentiality with respect to these modifications and the testing conducted to demonstrate that the vehicles would meet this standard with these modifications performed.

Standard No. 110 Tire Selection and Rims: installation of a tire information placard.

Standard No. 111 Rearview Mirror: inscription of the required warning statement on the face of the passenger side rearview mirror.

Standard No. 114 Theft Protection: modification of the key locking system to meet this standard. The petition does not describe these modifications. G&K is claiming confidentiality with respect to these modifications.

Standard No. 135 Passenger Car Brake Systems: modification of the hydraulic brake system and the parking brake system through the installation of components available only from G&K. The petition does not describe these modifications. G&K is claiming confidentiality with respect to these modifications and the testing conducted to demonstrate that the vehicles would meet this standard with these modifications performed.

Standard No. 201 Occupant Protection in Interior Impact: replacement of interior components with components fabricated by, and available only through, G&K. The petition does not describe these components or their manner of installation. G&K is claiming confidentiality with respect to these modifications and the testing conducted to demonstrate that the vehicles would meet this standard with these modifications performed.

Standard No. 204 Steering Control Rearward Displacement: modification of the vehicles to meet the standard. The petition does not describe these modifications. G&K is claiming confidentiality with respect to these modifications and the testing conducted to demonstrate that the vehicles would meet this standard with these modifications performed.

Standard No. 206 Door Locks and Door Retention Components: modification of the door locks and door retention components to meet the standard. The petition does not describe these modifications. G&K is claiming confidentiality with respect to

these modifications and the testing conducted to demonstrate that the vehicle would meet this standard with these modifications performed.

Standard No. 208 Occupant Crash Protection: modification of the vehicles to meet this standard. The petition does not describe these modifications. G&K is claiming confidentiality with respect to these modifications and the testing conducted to demonstrate that the vehicles would meet this standard with these modifications performed.

Standard No. 209 Seat Belt Assemblies: modification of the seat belt systems to meet this standard. The petition does not describe these modifications. G&K is claiming confidentiality with respect to these modifications.

Standard No. 214 Side Impact Protection: modification of the vehicles through the installation of components available only from G&K. The petition does not describe these modifications. G&K is claiming confidentiality with respect to these modifications and the static and dynamic testing conducted to demonstrate that the vehicles would meet this standard with these modifications performed.

Standard No. 216 Roof Crush Resistance: modification of the vehicles to meet this standard. The petition does not describe these modifications. G&K is claiming confidentiality with respect to these modifications and the testing conducted to

demonstrate that the vehicles would meet this standard with these modifications performed.

Standard No. 225 Child Restraint Anchorage Systems: installation of a U.S.-model tether anchorage behind the passenger seat on coupe models.

Standard No. 301 Fuel System Integrity: modification of the vehicles' fuel system through the installation of components available only from G&K. The petition does not describe these modifications. G&K is claiming confidentiality with respect to these modifications and the testing conducted to demonstrate that the vehicles would meet this standard with these modifications performed.

Standard No. 302 Flammability of Interior Materials: treatment of interior materials and components covered by the standard with material available only from G&K. G&K is claiming confidentiality with respect to these modifications and the testing conducted to demonstrate that the vehicles would meet this standard with these modifications performed.

The petitioner states that a vehicle identification number plate must be affixed to the vehicles near the left windshield post and a reference and certification label must be affixed in the area of the left front door post to meet the requirements of 49 CFR Part 565. The petitioner further states that a

certification label must be affixed to the driver's door jamb to meet the requirements of 49 CFR Part 567.

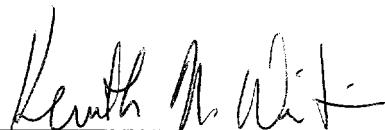
Additionally, the petitioner states that 2002-2004 Smart Car Passion, Pulse, and Pure (coupe and cabriolet) passenger cars must be modified through the installation of components available only from G&K to comply with the Bumper Standard found in 49 CFR Part 581. The petition does not describe these modifications. G&K is claiming confidentiality with respect to these modifications and the testing conducted to demonstrate that the vehicles would meet this standard with these modifications performed.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Management, Room PL-401, 400 Seventh St., SW, Washington, DC 20590. [Docket hours are from 9 am to 5 pm]. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the Federal Register pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141(a)(1)(B) and (b)(1); 49 CFR
593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: OCT 28 2008

A handwritten signature in black ink, appearing to read "Kenneth N. Weinstein", is written over a horizontal line.

Kenneth N. Weinstein
Associate Administrator
for Enforcement

Billing Code: 4910-59-P